

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

GREGORY MORGENWECK,

Plaintiff

VS.

VISION CAPITAL ADVISORS, LLC., VISION  
OPPORTUNITY CAPITAL MANAGEMENT,  
LLC, ADAM BENOWITZ, and RANDOLPH  
COHEN,

Defendants

VISION CAPITAL ADVISORS, LLC., and  
VISION OPPORTUNITY CAPITAL  
MANAGEMENT, LLC ,

Counterclaim-Plaintiffs

VS.

GREGORY MORGENWECK,

Counterclaim-Defendant

Civil No.: 08 CV 2969 (BSJ) (RLE)  
ESF Case

**INITIAL DISCLOSURES PURSUANT TO RULE 26(a) OF PLAINTIFF/ COUNTER-CLAIM  
DEFENDANT, GREGORY MORGENWECK**

By and through his attorneys, Kent & McBride, P.C., Plaintiff/Counter-Claim Defendant, Gregory Morgenweck, hereby makes the following disclosures pursuant to Rule 26(a) of the Federal Rules of Civil Procedure.

1. **Individuals likely to have discoverable information:**

- (a) Gregory Morgenweck  
41 Glenock Way  
Malvern, PA 19355

Plaintiff/Counter-Claim Defendant, Gregory Morgenweck, has information to support his claim that, Defendants, inter alia, breached their contract with Mr. Morgenweck by failing to compensate him for work performed for Defendants, more specifically, the Vision Defendants. Mr.

Morgenweck also has information to defend claims regarding job performance and claims of conversion and misappropriation of information and/or documents.

- (b) Adam Benowitz  
c/o Vision Capital Advisors, LLC  
20 West 55<sup>th</sup> Street, 5<sup>th</sup> Floor  
New York, NY 10019

Mr. Benowitz is believed to have information regarding the agreement entered into with Mr. Morgenweck, pertaining to the services and compensation Mr. Morgenweck was to provide and receive for Defendants. It is also believed that Mr. Benowitz may possess information regarding duties and work performed by Mr. Morgenweck on behalf of the Defendants.

- (c) Randolph Cohen  
c/o Vision Capital Advisors, LLC  
20 West 55<sup>th</sup> Street, 5<sup>th</sup> Floor,  
New York, NY 10019

Mr. Cohen is believed to have information regarding the agreement entered into with Mr. Morgenweck, pertaining to the services and compensation Mr. Morgenweck was to provide and receive for Defendants. It is also believed that Mr. Cohen may possess information regarding duties and work performed by Mr. Morgenweck on behalf of the Defendants.

- (d) David Berger  
c/o Vision Capital Advisors, LLC  
20 West 55<sup>th</sup> Street. 5<sup>th</sup>  
New York, NY 10019

Mr. Berger is believed to have information regarding the agreement entered into with Mr. Morgenweck, pertaining to the services and compensation Mr. Morgenweck was to provide and receive for Defendants. It is also believed that Mr. Berger may possess information regarding duties and work performed by Mr. Morgenweck on behalf of the Defendants.

- (e) Antti Uusiheimala  
c/o Vision Capital Advisors, LLC  
c/o Vision Capital, LLP  
20 West 55<sup>th</sup> Street. 5<sup>th</sup>  
New York, NY 10019

Mr. Uusiheiumala is believed to have information regarding the agreement entered into with Mr. Morgenweck, pertaining to the services and compensation Mr. Morgenweck was to provide and receive for Defendants. It is also believed that Mr. Uusiheimula may possess information regarding duties and work performed by Mr. Morgenweck on behalf of the Defendants.

(f) Maureen Kelly.

Miss Kelly's address and telephone number are unknown at this time. Ms. Kelly is believed to possess discoverable information pertaining to the agreement entered into by the Defendants and Mr. Morgenweck, in which Mr. Morgenweck was to perform services on behalf of and for the benefit of the Defendants and to receive compensation for such services.

(g) James Crombie

Mr. Crombie's address and telephone number are unknown at this time. Mr. Crombie is believed to possess discoverable information pertaining to the agreement entered into by the Defendants and Mr. Morgenweck, in which Mr. Morgenweck was to perform services on behalf of and for the benefit of the Defendants and to receive compensation for such services. Mr. Crombie is also believed to possess information regarding the work performed by Mr. Morgenweck on behalf of and for the benefit of Defendants.

Plaintiff/Counter-Claim Defendant, Gregory Morgenweck may use any of the discoverable information from the above individuals to support his claims and/or defenses, unless the use would be solely for impeachment. Plaintiff/Counter-Claim Defendant, Gregory Morgenweck reserves the right to amend and/or supplement this list.

2. **Documents in the Plaintiff/Counter-Claim Defendant's Possession, Custody or Control**

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- (a) Any and all pleadings filed with the Court as of this date;
- (b) E-mails sent by Mr. Morgenweck to Defendant regarding work performed by Mr. Morgenweck on behalf of Defendants.
- (c) E-mails sent by Mr. Morgenweck to Defendant regarding compensation for services performed on behalf of Defendants;
- (d) E-mails received by Gregory Morgenweck from individuals, including Defendants, regarding work performed by Mr. Morgenweck, on behalf of, and to the benefit of, Defendants.
- (e) E-mails received by Gregory Morgenweck from others, including Defendants, regarding compensation for services rendered by Mr. Morgenweck on behalf of, and for the benefit of Defendants.
- (f) Spread sheets and other similar data base (hard copy) information concerning the Defendants and Gargoyle;
- (g) Copies of draft agreements between Mr. Morgenweck and Defendants regarding a proposed settlement agreement between Mr. Morgenweck and Defendants.
- (h) Tax records of Gregory Morgenweck..

Plaintiff/Counter Defendant, Gregory Morgenweck, may use the above documents to support his claims and/or defenses, unless the use would be solely for impeachment. Plaintiff/Counter-Claim Defendant, Gregory Morgenweck, reserves the right to amend and/or supplement this list.

3. **Computation of Damages**

Plaintiff/Counter-Claim Defendant, Gregory Morgenweck, has suffered damages as a result of Plaintiff's breach of contract and other allegations contained in Plaintiff's Complaint. It is Plaintiff's contention and best estimate that damages, as a result of Defendant's

failure to compensate Plaintiff, exceeds \$200,000.00. As these damages are in partially based on financial information of the Defendants, no definite figure can be placed as of this time.

In essence, Mr. Morgenweck performed services on behalf of, and for the benefit of Defendants, for approximately eighteen (18) months without receiving any form of compensation from Vision Capital or Vision Opportunity, resulting in irreparable harm to the Plaintiff, the extent of which is not readily known as of this date.

Plaintiff/Counter Defendant, Gregory Morgenweck reserves the right to supplement and/or amend this claim for damages.

4. **Insurance**

\_\_\_\_\_Not applicable.

KENT & McBRIDE, P.C.

By:                   /s/                    
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DATE:   7/16/08